



U.S. DEPARTMENT of STATE

Namibia

Country Reports on Human Rights Practices - [2003](#)

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Namibia is a multiparty, multiracial democracy. President Sam Nujoma, leader of the South West Africa People's Organization (SWAPO), was reelected in 1999 general elections, which international and domestic observers agreed were generally free and well administered despite some irregularities; SWAPO won three-quarters of the seats in the National Assembly. The judiciary was independent, but at times inefficient.

The police, including the paramilitary Special Field Force (SFF), supervised by the Ministry of Home Affairs, and the Namibian Defense Force (NDF), supervised by the Ministry of Defense, shared responsibility for internal security. The Namibian Central Intelligence Service (NCIS) has responsibility for national security-related intelligence inside and outside the country. Civilian authorities maintained effective control of the security forces. Some members of the security forces committed serious human rights abuses; however, there was improvement in some areas.

The market-based economy was heavily dependent on mining, fish, and tourism; the population was 1.8 million. More than 50 percent of the working population was engaged in subsistence agriculture. The per capita income of approximately \$1,730 masked an extreme disparity between the income levels of black citizens and white citizens, which resulted in large part from the pre-independence apartheid regime; however, the living standards of black citizens continued to improve, and the major economic resources in the country no longer were controlled exclusively by white citizens. White citizens and foreign interests still largely controlled ranching. Unemployment was approximately 31 percent and affected primarily the black majority. Government policies continued to promote equality through education, job creation, and promotion of entrepreneurial opportunities for the historically disadvantaged.

The Government generally respected the human rights of its citizens; however, there were serious problems in several areas. Security forces killed civilians and mistreated and reportedly tortured citizens during arrests and detentions. Unlike in the previous year, there were no reports of disappearances perpetrated by security forces. Some security force members who committed abuses were arrested and tried; however, the Government did not take action in other cases. Conditions in prisons and military detention facilities were Spartan. Problems with arbitrary arrest and lengthy pretrial detention continued. A large court backlog, due primarily to resource constraints, resulted in lengthy delays of trials. High-level government officials continued to respond to criticism of ruling party and government policies with verbal abuse. There continued to be pressure on journalists who worked for government-owned media outlets not to criticize the Government. Violence against women and children, including rape and child abuse, continued to be serious problems; however, the Government passed comprehensive anti-domestic violence legislation during the year. Women continued to experience serious legal and cultural discrimination. Racial and ethnic discrimination and serious disparities in education, health, employment, and working conditions continued. Discrimination against indigenous persons persisted. There were reports of forced labor, including by children, and child labor was a problem; however, the Government continued its efforts to end child labor. Unlike in previous years, there were no reports of trafficking in persons. Angolan Armed Forces (FAA) soldiers reportedly intimidated and abused civilians; however, there were fewer such reports than in previous years.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no political killings; however, security forces committed unlawful killings during the year.

On January 1, in Sinai village, an NDF member shot and killed Mohamed Sawana and injured Sonette Benson. The perpetrator was arrested, and the NDF provided assurances that disciplinary measures would be taken. At year's end, the suspect was out on bail, and the case was pending a decision by the Prosecutor General.

On July 31, police reportedly severely beat Alilo Ndungula, who was being detained in Eenhana police cells; Ndungula was subsequently taken to the hospital, where he died. Police claimed Ndungula died of gastroenteritis; however, human rights groups alleged that his death was a result of the beating. The case was under investigation at year's end.

During the year, the SFF member who shot and killed Kangere Kanjenje in 2002, allegedly for wearing a South West Africa Territorial Force T-shirt, was dismissed.

In March, the High Court sentenced Constable Chris Wacko Witbooi to 8 years' imprisonment for the 1999 fatal beating of a student in Okahandja.

There were no further developments in the following 2002 cases: The February killing of Wilhelm Hafeni Hamuteta by SFF forces, and the November killing by NDF members of five men accused of being affiliated with the Caprivi Liberation Army (CLA).

No actions were taken against security forces responsible for several killings reported in 2001. The 2001 death in custody of Ismael Mohamed remained under investigation at year's end. No further action was taken in the 2001 death in custody of Hans Dikua.

There were no developments in the 2002 killing of Kavango villager Sakaria Haundjange Stephanus by suspected Angolan rebels or the 2001 death of Nghihangwa Kandume after being in the company of FAA soldiers.

Landmines or unexploded ordinance killed and injured several persons during the year. For example, on June 21, unexploded ordinance killed 13-year-old Neuni Abraham at Nepara Village. The police Explosive Ordinance Disposal Unit and NDF operational clearance teams participated in demining activities during the year.

b. Disappearance

There were no reports of politically motivated disappearances.

There were no developments in the 2002 disappearance of Fransisco Chivela, who security forces detained on suspicion of being a "UNITA bandit."

During the year, there were media reports that several citizens abducted in 1999 and 2000 by UNITA forces had returned to the country.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such practices; however, security forces sometimes beat or otherwise mistreated persons during the year. One person died after being beaten in custody (see Section 1.a.).

Despite a police directive that prohibited the use of sjamboks (heavy leather whips), security forces continued to use them, and to beat and otherwise mistreat persons they held in custody. Some prisoners alleged that they had been tortured in custody.

On January 1, an NDF member shot Sonette Benson in the thigh (see Section 1.a.).

In March, Swakopmund police arrested John Benjamin Pearce and Cynthia Boois for being intoxicated in public; Pearce claimed that police beat him and broke his hand, and Boois claimed that police had slapped her. The couple filed an assault charge; however, they subsequently withdrew the charge, and the case was closed.

On June 13, SFF members at Oshakati arrested and beat George Petrus, who filed a charge of assault with grievous bodily harm. The case was under investigation at year's end.

In July, two female NDF recruits claimed they were subjected to physical and verbal abuse after they refused sexual advances by their superior officers. No known action had been taken against the responsible officers by year's end.

On December 22, members of the NDF harassed men in Katutura and demanded that they remove their earrings. When the men refused, the NDF members beat Beau Pietersen and Hatani Mao Eichab with sjamboks. According to the NDF, which offered to pay medical expenses for the two victims, the incident was under investigation at year's end.

During the year, Joey Yon did not charge the police officers who beat him in 2002 after he assaulted a police officer. The officer who was assaulted filed charges against Yon, and the case was pending at year's end.

There were no developments in the following 2001 cases in which security forces beat or abused persons: The beating by SFF members of five farmworkers; the beating of Masati Muyenga by NDF soldiers; the torturing by NDF soldiers of Johannes Sondaha Kampumburu, Peter Mukonda, Paulus Shifure, Petrus Kalimbwe, and Joseph Simbinde Muvundu; and the shooting of Frederick Namaseb.

During the year, media and human rights groups continued to report on the ongoing court cases that resulted from security forces responding with violence to secessionist attacks in 1999 (see Section 1.d.). In May, the case filed by Zedrick Zahansi Katonga, who was arrested, detained, and allegedly tortured during the 1999 state of emergency, was settled out of court under confidential terms. Six other civil cases against security forces, including the case filed by Geoffrey Mwilima, were settled out of court during the year. More than 100 related cases were pending at year's end.

Unlike in the previous year, there were no reports that SFF members harassed persons who they stopped for identification checks.

During the year, some citizens of the Mafwe ethnic group complained of police harassment in the form of repeated interrogations about the 1999 secessionist attacks at Katima Mulilo (see Section 1.d.).

There continued to be reports of intimidation and abuse of civilians in the northern border areas by FAA soldiers; however, there were fewer such reports than in previous years. There was no further information on the 2002 rape by FAA soldiers of a woman with disabilities.

Landmines continued to injure persons (see Section 1.a.).

Conditions in prisons and military detention facilities were Spartan; however, the conditions generally met international standards. Visits by international organizations, as well as by a government-sponsored commission, found incidents of overcrowding and poor maintenance; however, unlike in previous years, there were no reports of the abuse of vulnerable groups, such as women. Victims of abuse were able to pursue legal remedies. The Ministry of Prisons and Correctional Services administered the country's prisons and jails and continued to work to improve conditions.

Female prisoners were held separately from male prisoners. The Government also made efforts to separate juvenile offenders from adult criminals, and there were separate facilities for child offenders in Windhoek and Mariental; however, in many rural areas, juveniles continued to be held with adults. There were several pilot programs that provided alternatives to incarceration for juvenile offenders. Pretrial detainees generally were held separately from convicted prisoners.

During the year, several persons died in custody from natural causes. For example, in Grootfontein prison, Benard Nyamazo Makunde died on January 19, and Felix Munangisa died on February 17. On October 16, Oscar Lupalezwi died of malaria at Katima Mulilo hospital, where he had been transferred from Grootfontein. On November 10, Euster Matomola Masake, who also had been detained at Grootfontein, died at Katima Mulilo. All four men were detained as high treason suspects connected with the 1999 secessionist attacks in Caprivi (see Section 1.d.).

The Government continued to grant nongovernmental organizations (NGOs) regular access to prisons and prisoners. The International Committee for the Red Cross (ICRC) requested and received prison access, including access to the high security Dorbabis detention facility.

d. Arbitrary Arrest, Detention, or Exile

The Constitution forbids arbitrary arrest or detention except in situations of national emergency; however, security forces at times used arbitrary arrest and detention in practice.

The country's 10,000-member national police force (NAMPOL) is highly centralized with regional commands responsible to the Inspector General of Police, who reports to the Minister of Home Affairs. Approximately half of NAMPOL's overall complement is assigned to the SFF, a paramilitary unit made up primarily of combatants from the former People's Liberation Army of Namibia; SFF members were assigned to guard duty, roadblocks, and the maintenance of public order. NAMPOL lacked the resources, training, and personnel to consistently deter or investigate street crime.

The police continued to make use of a human rights training course and a human rights training manual designed by the Legal Assistance Center (LAC). At times security force members accused of committing abuses were arrested and tried in military courts or the civilian criminal justice system; however, in other cases, the Government did not take any action against those responsible for abuses.

Persons who are arrested must be informed of the reason for their arrest and must be brought before a magistrate within 48 hours of their detention. Those accused are entitled to defense by legal counsel of their choice, and those who cannot afford a lawyer are entitled to state-provided counsel; however, in practice, many accused persons in remote and rural areas were not represented by counsel, primarily due to the lack of resources. Prisoners generally had access to legal counsel and family during regular visiting hours. Detainees had access to their lawyers prior to trial. There was a functioning bail system in place, and LAC reported that it generally was observed except in rural areas, where persons often were unaware of their legal rights.

Under a state of emergency, the Constitution permits detention without trial, although the names of detainees must be published in the Government's gazette within 14 days, and their cases must be reviewed within 1 month by an advisory board appointed by the President.

During the 1999 state of emergency declared in response to CLA attacks in Katima Mulilo, the security forces detained several hundred suspected CLA members and sympathizers, most of whom were released after 2 weeks. Of those who remained in detention, four died during the year (see Section 1.c.). In May, the Government released five detainees. During the year, three additional persons arrested in July 2002 were transferred from Mariental Prison to Grootfontein Prison and added to the list of high treason suspects. By year's end, 120 suspects remained in detention at Grootfontein. On October 27, trial proceedings began (see Section 1.e.).

In July, the Government applied to appeal the Botswana High Court's 2002 decision to reject the country's request to have 13 alleged Caprivi secessionists extradited to face charges of murder and high treason. In December, the Government of Botswana forcibly returned an unrelated group of eight refugees to the country, seven of whom were subsequently arrested on charges of high treason for their alleged role in the 1999 CLA attacks (see Section 2.d.). Human rights groups protested the repatriations. The seven remained in detention at year's end awaiting trial.

Citizens who were arrested arbitrarily used civil suits as legal recourse in many cases (see Section 1.c.). Aurelio Samakupa Sondjamba, who was held incommunicado at the Dordabis detention facility for more than 2 years and released without charge in December 2002, filed a claim for damages against the Government, which contested his claim; the case was awaiting a trial date at year's end.

Unlike in the previous year, security forces did not arrest persons suspected of collaboration with Angolan rebels.

During the year, Paulus Ndumba and Markus Vihemba, who were arrested in 2002, were released on bail. Human rights groups claimed the two men had been arrested for allegedly collaborating with UNITA rebels; however, police claimed the arrests were for stock theft. The case remained pending at year's end.

There was no further information on the following cases of arbitrary arrest and detention: The July 2002 arrest of three persons, who remained in detention at year's end for suspected involvement with the CLA; and the 2001 case of suspected rebel collaborator Rassen Lutambo.

Unlike in previous years, there were no reports that police arrested persons for not having identification cards. There was no further information in the 2001 arrest and detention of members of the Hai/Om San ethnic group for not having identification cards.

Unlike in the previous year, there were no reports that traditional leaders detained and imprisoned persons. The 2002 civil suit filed by Anna Shingenge, who was detained by King Munkundi of the Ongandjera Traditional Authority for 7 months, was pending trial at year's end.

A trial must take place within "a reasonable time," or the accused must be released. Human rights organizations have criticized the length of time that pretrial detainees were held, which has extended beyond 1 year in some cases (see Section 1.e.).

The Constitution prohibits forced exile, and the Government did not use it.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the court system at times was inefficient.

On October 27, after repeated postponements, the trial began of the remaining detainees arrested in connection with the 1999 state of emergency. Initial proceedings focused on procedural challenges by the defense over the jurisdiction of the High Court in Grootfontein. The trial was ongoing at year's end.

The formal court system has 3 levels: 30 magistrates' courts; the High Court; and the Supreme Court. The latter also served as a court of appeals and as a Constitutional review court.

The Constitution provides for the right to a fair trial with a presumption of innocence until proven guilty, and the judiciary generally respected this provision; however, this right was limited somewhat in practice by long delays in hearing cases in the regular courts and the uneven application of Constitutional protections in the traditional system.

The lack of qualified magistrates and other court officials and the high cost of legal aid resulted in a serious backlog of criminal cases, which often translated into delays of up to 1 year or more between arrest and trial, contravening Constitutional provisions for the right to a speedy trial. Some of those awaiting trial were incarcerated in the same conditions as those of convicted criminals.

Most rural citizens first encountered the legal system through the traditional courts, which dealt with minor criminal offenses such as petty theft and infractions of local customs among members of the same ethnic group. The law delineates which offenses may be dealt with under the traditional system. The law defines the role, duties, and powers of traditional leaders and provides that customary law is invalid if it is inconsistent with provisions of the Constitution.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution provides all citizens with the right to privacy and requires arresting officers to secure a judicial warrant before conducting a search, except in situations of national emergency; government authorities generally respected these rights in practice. In general, violations were subject to legal action.

Under the law, the NCIS is authorized to conduct wiretaps, intercept mail, and engage in other covert activities, both inside and outside the country, to protect national security; however, wiretaps and covert surveillance required the consent of a judge.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, subject to reasonable restrictions in situations such as a state of emergency, and the Government generally respected these rights in practice; however, at times, high-level government officials responded to criticism of the ruling party and government policies with verbal abuse. There also were reports of government pressure on reporters who worked for the government-owned media.

The Government owned one newspaper, the biweekly New Era, and contributed financially to the Namibia Press Agency, a parastatal. The ruling SWAPO party owned one publication, Namibia Today. There were six independent newspapers. Reporters for independent newspapers continued to criticize the Government openly and did not engage in self-censorship.

The Government owned and operated the Namibian Broadcasting Corporation (NBC) Radio and Television. NBC television and nine radio services that broadcast in English and indigenous languages were the most widely heard and influential media in the country. During the year, there were reports of government influence on and self-censorship by the staff of NBC operations and editorial content. In January, a new director general of NBC was appointed, and in May, President Nujoma named a new Minister of Information and Broadcasting, relinquishing the State House's nominal direct control over the portfolio.

There were nine private radio stations, one private television station, and a private cable and satellite television service that broadcast the Cable News Network, the British Broadcasting Corporation, and a range of South African and international news and entertainment programs. The ruling SWAPO party owned 51 percent of this cable service. There were no restrictions on the private ownership of satellite dishes, and the use of satellite dishes and cable television was growing.

Government departments were precluded from advertising in The Namibian newspaper or purchasing it with state funds because of the newspaper's critical coverage of the President and the Government. Political parties, including the ruling SWAPO party, advertised in The Namibian.

During the year, high-level government officials sharply and publicly criticized journalists in response to perceived criticism of the Government or ruling party. Such verbal attacks did not appear to have significantly affected the aggressive style of the independent media. Unlike in the previous year, there were no NGO reports that journalists from The New Era, which sometimes covered opposition views and party activities, were pressured to avoid coverage of controversial topics.

Government regulations required foreign journalists who sought to visit the country to apply for a temporary work permit from the Ministry of Home Affairs. No prior notice of their intended visit was necessary.

There were no restrictions on Internet access or use. There were growing numbers of domestic web pages, and the major newspapers had popular websites.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association, except in situations of national emergency, and the Government generally respected these rights in practice. Organizers of public meetings were required to obtain prior police approval, but many public gatherings took place without such approval and without interference by the Government.

In July, police and SFF members dispersed a demonstration by immigration officers protesting the incorporation of their division into the national police.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, except in situations of national emergency, and the Government generally enforced these rights in practice.

Unlike in the previous year, no curfews were imposed, and there were no reports that SFF members harassed persons they stopped for identification checks.

The law provides for the granting of refugee status and asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government provided protection against refoulement and granted refugee status or asylum; however, the Government required individual status determinations for asylum cases. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government also provided temporary protection to certain individuals who fall outside of the definition in the Convention.

On November 6, the UNHCR, Government of Rwanda, and the Government signed a tripartite agreement on the voluntary repatriation of the more than 500 Rwandan refugees who live in the country.

At year's end, the population at the Osire Refugee Camp was 14,864. Approximately 90 percent of this population was from Angola; the remaining refugees were from the Democratic Republic of the Congo, Burundi, Rwanda, and other African countries. During the year, 4,000 refugees voluntarily returned to Angola. The Government generally did not permit refugees and asylum seekers to work or live outside the Osire refugee camp. Education through grade 10 was available to all refugees at the camp, and the Government facilitated further secondary education at schools outside the camp. Unlike in previous years, new arrivals to the camp did not suffer from malnutrition. Some tension with local farmers persisted; farmers accused some refugees of stealing firewood, and refugees claimed they were not paid for informal labor.

The Government continued to maintain strict control over civilian access to the Osire refugee camp; however, the ICRC and the UNHCR had access to the camp.

In July, the Government applied to appeal the Botswana High Court's 2002 decision to reject the Government's request to have 13 alleged Caprivi secessionists extradited to face charges of murder and high treason (see Section 1.d.). There were no further developments by year's end.

In December, the Government of Botswana forcibly returned eight Namibian refugees to the country (see Section 1.d.).

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens exercised their right to change their government by electing a President and National Assembly for the second time since independence during the 1999 general election, which international and domestic observers agreed was generally free and well administered despite some irregularities. Observers noted instances of harassment of opposition members during the campaign and unequal access to media coverage and campaign financing. Nevertheless, voter turnout was more than 60 percent, and the election proceeded peacefully. Sam Nujoma, leader of the ruling party SWAPO, was re-elected for another 5-year term. Although the Constitution formerly limited the President to two terms in office, in 1998, the National Assembly amended the Constitution to permit President Nujoma to run for a third term. President Nujoma won 77 percent of the vote and SWAPO won 55 of 72 elected National Assembly seats. In the National Assembly, 4 opposition parties won a total of 17 seats, including the Congress of Democrats party, which won the largest number of opposition votes; the Democratic Turnhalle Alliance; the United Democratic Front; and the Monitor Action Group.

The Constitution establishes a bicameral Parliament and provides for general elections every 5 years and regional elections every 6 years. Members of the National Assembly are elected on a party list system on a proportional basis. National Council members are elected from within popularly elected Regional Councils.

High-level government officials criticized opposition politicians in response to perceived criticism of the Government. This did not significantly affect opposition political parties, which generally were able to undertake political activities such as advertising and holding party conferences and public rallies.

Women held 20 seats in the 78-seat National Assembly. There was a Women's Caucus in Parliament that reviewed legislation for gender sensitivity. There were 4 female ministers, including the Attorney General, and 4 female deputy ministers among the 45 ministerial and deputy ministerial positions. A woman held a cabinet-level position as Director of the National Planning Commission until May, when she became Minister of Finance. The Ombudswoman resigned her post in August to become the African Union Commissioner for Social Affairs in Addis Ababa; no permanent replacement had been appointed.

Historic economic and educational disadvantages limited the participation of the indigenous San ethnic group in politics; however, a member of the San community representing the SWAPO party was elected to the National Assembly in the 1999 general elections. Virtually all of the country's other ethnic minorities were represented in

Parliament and in senior positions in the Cabinet. Members of smaller ethnic groups held the offices of Prime Minister, Deputy Prime Minister, and Speaker of the National Assembly.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, high-level government officials continued to use harsh language in response to NGO criticism of the ruling party and government policies. Government officials continued to verbally attack human rights NGOs, including Amnesty International, the Minority Rights Group, and the National Society of Human Rights. Despite verbal attacks, NGOs continued to criticize government policies freely.

In addition, human rights organizations and academic organizations, such as the Media Institute for Southern Africa (MISA), the Centre for Applied Social Sciences, and the Human Rights Documentation Centre, worked openly on a variety of human rights problems affecting the press, women, ethnic minorities, and other groups. In August, President Nujoma said he "condemned" MISA; however, the Government allowed MISA to continue working freely.

During the year, representatives of international human rights organizations, including Human Rights Watch, visited the country.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution prohibits discrimination based on race, creed, gender, or religion, and specifically prohibits "the practice and ideology of apartheid"; the Government generally enforced this prohibition. During the year, there was continued improvement in the attention paid to women's issues and the rights of persons with disabilities.

The law protects homosexuals from employment discrimination; however, during the year, senior government officials, including President Nujoma, continued to make disparaging public remarks about homosexuals. For example, in an August speech at the University of Namibia, President Nujoma criticized homosexuality, calling it "against nature and our culture."

Women

Domestic violence against women, including beating and rape, was widespread. Traditional attitudes regarding the subordination of women exacerbated problems of sexual and domestic violence. The law defines rape in broad terms and allows for the prosecution of spousal rape. There continued to be an improvement in the attention paid to the problems of rape and domestic violence. In June, the Combating of Domestic Violence Bill was signed into law. In September, in the Windhoek Magistrate's Court in Katutura, a special courtroom was inaugurated to protect vulnerable witnesses from open testimony; the courtroom featured a cubicle made of one-way glass and a child-friendly waiting room.

Women and Child Protection Units, staffed with police officers trained to assist victims of sexual assault, were located in nine cities; during the year, LAC and other NGOs continued to provide training to these units. Police reported an increase in the number of women who reported rape and domestic violence.

The Constitution prohibits discrimination against women, including employment discrimination; however, men dominated positions in upper management. The Ministry of Labor and Employment Equity Commission, which reports to the Minister of Labor, was responsible for problems involving discrimination in employment; the Ministry of Women Affairs and Child Welfare was responsible for advocating for women's rights. The law prohibits discriminatory practices against women married under civil law. Women married under customary (traditional) law continued to face legal and cultural discrimination. Traditional practices that permitted family members to confiscate the property of deceased men from their widows and children still existed; however, the frequency of such cases lessened considerably during the year.

Children

The Constitution enumerates children's rights, including those in the area of education and health. During the year, approximately 20 percent of government expenditures were designated for education and 15 percent for health

care; however, in practice, resource constraints and untrained support staff resulted in inadequate attention to child welfare.

The Constitution provides children with the right to primary and junior secondary education (grades 1 to 10); however, the numerous fees, which included fees for uniforms, books, boarding costs, and school improvement, placed a heavy burden on students' families, and precluded some children from attending school. In general, more girls than boys were enrolled in secondary schools. Many San children did not attend school.

During the year, the Government took several steps to provide medical care and other assistance to the growing number of HIV/AIDS orphans and other vulnerable children. The Government established a trust fund for such children and received commitments for contributions from the international donor community. The Government also adopted the program goals of the U.N. General Assembly Special Session for Orphans and Vulnerable Children.

Child abuse was a serious and increasingly acknowledged problem. The authorities vigorously prosecuted crimes against children, particularly rape and incest. The law protects children under 18 years of age by criminalizing sexual exploitation, child pornography, and child prostitution. The age of sexual consent was 16 years. During the year, courts handed down longer sentences against child rapists than in previous years, and the Government provided training for police officials to improve the handling of child sex abuse cases. Centers for abused women and children worked actively to reduce the trauma suffered by abused children.

There were a few reports of child prostitution. In such cases, the police prosecuted parents as well as the perpetrators. In April, the Government signed and ratified the Optional Protocol to the Convention on the Rights of the Child, On the Sale of Children, Child Prostitution, and Child Pornography.

Child labor was a problem (see Section 6.d.).

Persons with Disabilities

While discrimination on the basis of disability is not addressed in the Constitution, the Labor Act prohibits discrimination against persons with disabilities in employment; however, enforcement in this area was ineffective. Although there was no legal discrimination against persons with disabilities, societal discrimination persisted. The Government legally does not require special access to public buildings for persons with disabilities, and some ministries remained inaccessible to them. Although some municipal governments have installed ramps and special curbing for persons with disabilities at street crossings, physical access for those with disabilities remained a problem. Disability issues continued to receive greater public attention than in previous years, with wider press coverage of the human rights problems that confront persons with disabilities.

Indigenous People

The San, the country's earliest known inhabitants, historically have been exploited by other ethnic groups. The Government has taken measures to end societal discrimination against the San, including seeking their advice about proposed legislation on communally held lands and increasing their access to education; however, many San children did not attend school. During the year, San leaders filed a complaint against the Ministry of Home Affairs alleging that they were unable to obtain proper and accurate identification documents.

By law, all indigenous groups participate equally in decisions affecting their lands, cultures, traditions, and allocations of natural resources; however, San and other indigenous citizens have been unable to exercise fully these rights as a result of minimal access to education, limited economic opportunities under colonial rule, and their relative isolation.

The Government's authority to confer recognition or withhold it from traditional leaders, even in opposition to local preference, was controversial because of the leaders' influence on local events, including local police powers. In some cases, the Government withheld recognition from genuine traditional leaders for political reasons.

National/Racial/Ethnic Minorities

Despite constitutional prohibitions, societal, racial, and ethnic discrimination persisted. Many nonwhites continued to complain that the Government was not moving quickly enough in education, health, housing, employment, and access to land. Some citizens continued to accuse the Government of providing more development assistance and professional opportunities to the numerically dominant Ovambo ethnic group than to other ethnic groups. There

also were reported cases of black farm workers suffering discrimination in remote areas at the hands of white farm owners.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for freedom of association, including freedom to form and join trade unions, and workers exercised this right in practice. Farm workers and domestic servants working on rural and remote farms often were ignorant of their rights, and unions experienced obstacles in attempting to organize these workers; as a result, they reportedly suffered abuse by employers. Trade unions had no difficulty registering, and there were no government restrictions on who may serve as a union official. The law provides a process for employer recognition of trade unions and protection for members and organizers.

Trade unions lacked resources; less than 20 percent of full-time wage earners were organized.

Unions were independent of the Government and could form federations. The two principal trade union organizations were the National Union of Namibian Workers (NUNW) and the Trade Union Congress of Namibia (TUCNA). The NUNW and SWAPO were affiliated. The Government recognized the non-SWAPO aligned TUCNA, and treated it professionally; however, the TUCNA did not appear to have the same level of access that government officials accorded to the NUNW.

Employers were required to give a registered union access to its members, and this provision of the law has been implemented effectively.

The law specifically protects both union organizers and striking workers from employer retaliation, and there appeared to be only isolated cases of retaliation. However, the scarcity of judges and lack of expertise in labor law caused lengthy and unnecessary delays.

The law also empowers the Labor Court to remedy unfair labor practices and explicitly forbids unfair dismissals. Unfair dismissals occurred when employers terminated employment without following correct procedures and a substantially fair process. Unfair dismissals may be appealed to the Labor Court, and remedies include fines, compensation, and reinstatement, as determined by a labor court judge; however, there were not enough judges to address the backlog of cases.

Trade unions were free to exchange visits with foreign trade unions and to affiliate with international trade union organizations. Unions were affiliated with the Southern Africa Trade Union Coordination Council, the Organization of African Trade Union Unity, and the International Congress Federation of Trade Unions.

b. The Right to Organize and Bargain Collectively

The law provides employees with the right to bargain individually or collectively and to recognize the exclusive collective bargaining power of the union when a majority of the employer's workers were members of that union. Collective bargaining was not practiced widely outside the mining and construction industries, which had centralized, industry-wide bargaining. Almost all collective bargaining was at the workplace and company level. However, as unions became more active, informal collective bargaining became more common. The Ministry of Labor cited lack of information and basic negotiation skills as factors hampering workers' ability to bargain with employers successfully.

Except for workers providing essential services such as jobs related to public health and safety, workers have the right to strike once conciliation procedures are exhausted, and 48-hour notice has been given to the employer and labor commissioner. Under the law, strike action can be used only in disputes involving specific worker interests, such as pay raises. Disputes over worker rights, including dismissals, must be referred to a labor court for arbitration (see Section 6.a.). The law protects workers engaged in legal strikes from unfair dismissal. The labor law does not prohibit labor by nonunion replacement workers, but most companies sought negotiated settlements rather than employing nonunion replacement workers.

Unlike in the previous year, there were no strikes; however, police dispersed a labor demonstration in July (see Section 2.b.).

There are export processing zones (EPZs) at the Walvis Bay and Oshikango industrial parks and a number of single-factory EPZs outside of these parks. The law applies to EPZs, and unions have been active in the EPZs since their establishment.

c. Prohibition of Forced or Bonded Labor

The law prohibits forced and bonded labor, including by children; however, there continued to be media reports during the year that farm workers (including some children on family-owned commercial farms) and domestic workers often received inadequate compensation for their labor and were subject to strict control by employers. Given the Ministry of Labor's resource constraints, labor inspectors sometimes encountered problems in gaining access to the country's large, family-owned, commercial farms to investigate possible labor code violations.

d. Status of Child Labor Practices and Minimum Age for Employment

Child labor was a problem. Under the law, the minimum age for employment is 14 years, with higher age requirements for night work and in certain sectors such as mining and construction. Children below the age of 14 often worked on family-owned commercial farms and in the informal sector, and some also worked in communal areas.

Criminal penalties and court orders were available to the Government to enforce child labor laws; however, such action involved a complicated procedure that must be initiated through a civil legal process.

The Government has taken steps to end child labor abuses. During the year, the Ministry of Labor continued to hire additional inspectors, who used revised inspection checklists to include specific inquiries on International Labor Organization (ILO) Convention 182 concerns. The Ministry continued to work together to monitor abuses with ILO representatives, who visited the country during the year.

e. Acceptable Conditions of Work

There was no statutory minimum wage law; however, the mining and construction sectors set basic levels of pay. In 2002, representatives of farm owners and managers and the Ministry of Labor agreed upon a minimum wage for farm workers; however, in June, the Namibian Farmworkers Union claimed that nearly 40 percent of 200 farms surveyed paid their workers less than minimum wage. In Windhoek's historically disadvantaged high-population density areas, minimum wages for workers did not provide a decent standard of living for a worker and family. Wage levels for the less educated majority remained very low.

The standard legal workweek is 45 hours, and required at least one 24-hour rest period per week. An employer may require no more than 10 hours per week of overtime. The law mandates 24 consecutive days of annual leave, at least 30 workdays of sick leave per year, and 3 months of unpaid maternity leave. However, in practice these provisions were not observed or enforced rigorously by the Ministry of Labor.

The Government mandates occupational health and safety standards, and the Labor Act empowers the President to enforce these standards through inspections and criminal penalties. Labor laws generally were implemented efficiently; however, the Ministry of Labor still lacked an adequate number of trained inspectors to monitor adherence to such labor regulations as providing overtime pay and social security by some companies, especially small, family-owned operations. The law requires employers to ensure the health, safety, and welfare of their employees. It provides employees with the right to remove themselves from dangerous work situations; however, some workers did not have this right in practice.

The law accords the same rights to legal foreign workers as citizens.

f. Trafficking in Persons

The law does not prohibit specifically trafficking in persons; however, unlike in previous years, there were no reports of persons being trafficked to, from, or within the country. The law does prohibit slavery, kidnapping, forced labor, including forced prostitution, child labor, and alien smuggling.

There were a few reports of child prostitution (see Section 5).